

NIAGARA REGION STUDY REVIEW COMMISSION

ENVIRONMENT MINISTRY — FARM TAX REBATE: TWO CASE STUDIES, PROVINCIAL MUNICIPAL RELATIONS IN THE NIAGARA REGION

A Background Report Prepared by:

Smith, Auld & Associates Ltd.

November 1976

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NIAGARA REGION STUDY REVIEW COMMISSION

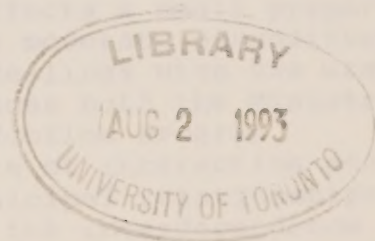
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This report has been prepared upon request of William L. Archer, Commissioner, appointed by the Treasurer of the Province of Ontario to undertake an independent study review of local government in the Region of Niagara.

The conclusions presented in this Background Report do not necessarily reflect the views of the Niagara Region Study Review Commission.

The final report of the Commission will be submitted to the Treasurer of the Province of Ontario on or before January 15, 1977. After that date, inquiries should be made to the Local Government Organization Branch, Ministry of Treasury, Economics and Intergovernmental Affairs, Queen's Park, Toronto (965-6934).



The following Background Reports have been prepared for the Commission and are available from the Commission offices or the Ministry of Treasury, Economics and Intergovernmental Affairs:

- (1) Electoral System in the Niagara Region
— M. J. Powell
- (2) Environment Ministry — Farm Tax Rebate; Two Case Studies, Provincial Municipal Relations in the Niagara Region
— Smith, Auld & Associates Ltd.
- (3) Fire Protection in the Niagara Region
— Dr. R. Church
- (4) Industrial Promotion in the Niagara Region
— Smith, Auld & Associates Ltd.
- (5) Land Use Planning in the Niagara Region
— Dr. J. N. Jackson
- (6) Mass Media in the Niagara Region
— Dr. W. H. N. Hull
- (7) Municipal Organization in the Niagara Region
— Dr. R. Church
- (8) Public Finance in the Niagara Region
— Dr. Lewis A. Soroka

PREFACE

The Government of Ontario exerts profound influence and control over local government in the province, including that of the Niagara Region. It does this partly through its statutory, funding and approvals processes: by virtually deciding by law what regional and area municipalities must and may do, by providing much of the funding for local government activities and by retaining the authority to exercise approval over many of the decisions taken at the local government level. Influence and control are also achieved through the delivery of the Province's own programs, by its various ministries and special purpose bodies, such as the Niagara Parks Commission.

The Province is powerful but it is not monolithic and neither is it as distant or remote from local government as perhaps tends to be believed. In its statutory, funding and approvals processes and in its own programs, close interaction and co-ordination between the Province and local governments are virtually a necessity if the Province is to function with any modicum of sensitivity, responsiveness and efficiency. Indeed, none of the three levels of government - area, regional or provincial - can function independently of the other two except in isolated and specific program areas. In general, they have to work together in a complex set of relationships.

This "working together" in the Niagara Region is evident in the activities of the Ministry of the Environment and also in the Farm Tax Reduction Program of the Province -- the two subjects of this research paper. One is an entire ministry concerned with a variety of policy issues and with the design and delivery of a diverse set of programs. These programs have a broad statutory base, they have a wide-ranging impact and they require substantial expenditure of public funds. The Ministry itself has a significantly decentralised organization structure and it interacts mainly with the Regional Municipality. The Farm Tax Reduction Program, on the other hand, is but one specific program of the Ontario Ministry of Treasury, Economics and Intergovernmental Affairs. It is administered under one provincial act and has a narrow, but not unimportant, policy content. It affects a small proportion of Niagara residents directly, involves moderate expenditure, is primarily centralised and requires dealings with the area municipalities. Despite these differences both the Ministry of the Environment and the Farm Tax Reduction Program illustrate clearly the degree and nature of interaction and coordination required in provincial-municipal relationships. Together they provide good examples of the interdependence which is characteristic of area, regional and provincial government activity.

ACKNOWLEDGMENTS

The authors would like to express their appreciation for the assistance they received in preparing these two research papers from Niagara Region residents and elected and appointed representatives; from civic servants and employees of municipal corporations; and from civil servants of the Province of Ontario. Also invaluable was the guidance and assistance the authors received from William L. Archer, Q.C., Commissioner of the Niagara Region Study Review Commission and from his staff.

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PART ONE

MINISTRY OF THE ENVIRONMENT

SUMMARY

Environmental programs within the Niagara Region must be seen in an historical context. Urban settlement and subsequent development in Niagara was among the earliest in Ontario and, not surprisingly, the environmental standards of those times were not as high as they are today. Increasingly, the Province has taken major initiatives in environmental protection and, particularly since the mid-1960's, it has strengthened its own environmental programs and, more recently, decentralised its own operation in order to achieve greater effectiveness in the field. Coincidentally, a Regional Municipality was established in Niagara. It was assigned substantial responsibility for environmental programs and it also reached a general agreement with the Province regarding the financing and rate structures of sewage and water works. These developments have led, inevitably, to weakening of the position of the area municipalities in environmental matters.

Currently, environmental protection programs delivered in the Niagara Region are based on five Provincial Acts. The Environmental Protection Act provides for programs relating to air pollution, waste management and private sewage disposal systems. The Ontario Water Resources Act is concerned with the supply of water and the treatment and disposal of sewage. The Pesticides Act, which is administered directly by the Ministry of the Environment, relates pesticides and the control of pests to environmental quality. The Environmental Assessment Act aims to ensure that the undertakings and developments of municipalities and other designated enterprises do not cause undue damage to the environment. Finally, the Regional Municipality of Niagara Act (Parts 3 and 4) assigns to the Regional Municipality considerable authority over water and trunk supply facilities and sewage treatment and sewage trunk systems.

Individually and collectively, the administration of these Acts requires interaction and coordination among the three levels of government involved. The Acts provide for the appointment of provincial officers who work within the Region on a day-to-day basis with local government officials. They provide for the funding of studies and research and for the planning, design, approval and construction of facilities - all of which require coordinated activity and, in some measure, the use of committees to achieve this coordination.

Naturally, the Acts also determine to a significant extent the division of responsibility among the area municipalities, the Regional Municipality and the Ministry of the Environment. Assessment activity relating to the general environment is conducted by the Ministry; assessment of specific environmental concerns by the Regional Municipality or area municipality

involved with the assistance of the Ministry. Responsibility for abatement, per se, rests with the municipality or enterprise causing pollution. Enforcement is undertaken almost exclusively by the Ministry itself. This overall division is evident in the way in which environmental programs are organised among the three levels of government.

The Regional Director of the Ministry's West Central Region has been assigned responsibility for policy implementation and the delivery of environmental protection and regional environmental assessment services. The activities of the Regional Office are carried out by three sections. The industrial abatement section is responsible for the protection of the natural environment from emissions from many sources including industrial processes, commercial and agricultural operations and construction and demolition activities. The municipal and private abatement section is responsible for a field program designed to enhance and protect the environment in matters relating to municipalities and the activities of citizens. The technical support section is involved in monitoring and evaluating changes in the environment, co-ordinating regional environmental impact assessment activities and evaluating the effectiveness of the Ministry's abatement programs. In performing their work the staff of these three sections interact with a wide variety of local individuals and representatives of private sector and public sector organizations.

The environmental programs of the Regional Municipality are administered by the pollution control, water and projects divisions of the Public Works Department. Sewage treatment plants, pumping stations and sewage lagoons are operated to treat the sewage coming from the area municipal collector systems. Water treatment facilities provide potable water to the area municipalities for ultimate distribution to consumers. Regional water and sewage works are planned, designed and constructed. The environmental responsibilities of the area municipalities include water distribution, sewage collection, litter control and the collection and disposal of solid waste. These are also usually administered through engineering or works departments.

Environmental approvals are a key activity requiring inter-governmental coordination. Proposed water and waste-water treatment systems, waste management facilities, urban and industrial developments and other activities and plans are reviewed by the Environmental Approvals Branch in the headquarters of the Ministry. Area municipal capital projects are reviewed by both the Ministry and the Regional Municipality. After considerable discussion among the parties involved (and sometimes public hearings), licences, permits, certificates of approval and quasi-approval are issued by the Ministry for those proposals which meet the standards set by the Ministry.

With the passing of the Environmental Assessment Act, greater emphasis in approval activities is now beginning to be placed on before-the-fact assessment rather than pollution control measures being imposed after facilities have been constructed.

The Ministry assists both the Regional Municipality and the area municipalities in the financing of sewage and water treatment facilities and provides supervision of the design and construction of the projects which it helps to fund. Coordination is achieved partly through the use of a standing technical liaison committee (and sub-committee) which, among other duties, attempts to establish the priorities of the Region and to reconcile these with the limited funds available.

Examination of the Ministry of the Environment's activities affecting the Niagara Region reveals several issues of concern. First, there is the contentious role of the Ministry in planning and development and the accusation that it is virtually shaping development in the Region by the provision of sewage and water systems designed to accommodate growth. Second, there is an apparent need for some adjustment to the jurisdictional and administrative arrangements applicable to sewage and water treatment systems which might include the Regional Municipality assuming responsibility for the development and construction of major treatment facilities. Third, there is the question of whether the Regional Municipality should take over from the Ministry the non-complex approval of sewage and water facilities. Fourth, there is an apparent need for some rationalization of the solid waste management programs presently administered by the area municipalities.

Resolution of these and other issues, although difficult to bring about, would do much to facilitate the effective delivery of environmental programs in the Niagara Region.

INTRODUCTION

In the region of Niagara, as elsewhere in the Province of Ontario, the environmental programs carried out by the provincial, the regional and the area municipal governments are designed to protect the natural environment from degradation by man's activity. Under authority of a number of Provincial statutes the three levels of government have developed a range of programs to control contaminant emissions, to establish environmental safeguards in planning, to improve management of waste and water and to restore and enhance the environment. The programs are far reaching - considering the environment to embrace the air, water and land resources and impinging on the activities of individuals, municipalities and industries.

Control and influence of environmental programs in Niagara is maintained by the Provincial Ministry of the Environment. Through the legislation, its approvals procedures and funding programs, the Ministry has been able to enforce directly standards and objectives in order to protect the environment and has also been able to maintain a watchful eye over those responsibilities which have been delegated to the regional and area municipal governments. While the Ministry does retain fundamental control it is also evident that, with the Ministry's increasing stress on prevention of environmental damage rather than after the fact abatement, there have been steps within the Ministry to delegate the major proportion of the abatement activities to its own regional offices or to the lower levels of government. At the same time, the Ministry has increased its consultation with the regional and area municipalities on preventative measures.

This report outlines the historic development of the environmental programs in Niagara, the basis on which environmental programs have developed and are implemented and the roles and organizations of the three levels of government in the environmental area. The extent of the Ministry's presence in the Region and the workings of the intergovernmental coordinating mechanisms now in operation are examined within the context of the environmental approvals and project funding activities of the Ministry. Finally, the major issues associated with interaction, coordination and the division of responsibilities among the three levels of government are identified and briefly described.

CHAPTER 1 - A BRIEF HISTORY

To understand the present structuring of environmental programs in the Region of Niagara, one must consider its historic development. Prior to 1956, area municipalities in Niagara, on their own account and generally under their own enabling legislation, developed small water distribution and sewage collection facilities and installed the corresponding treatment plants. These were, as one may expect, small in size, under-financed and often not environmentally acceptable. In these early years, single sewer collection systems were often installed to gather both sanitary sewage and storm water. Engineering standards of the day were not comparable to those now in force.

In the case of solid waste, the legislation pertaining to the area municipalities allowed them to make capital expenditures for the purpose of collecting and disposing of garbage. Here again, the standards for the operation of landfill sites were not as high as we know today.

In the mid 1950's the Province became concerned about air pollution in urban centres. As a result, permissive legislation was passed in 1958 to allow municipalities to pass by-laws for the control of air emissions. At the same time, the Province established a small advisory body to work with the municipalities. The City of St. Catharines was one of the 29 municipalities across Ontario which took advantage of the permissive legislation.

It was in the early 60's that the Province became much more directly involved in matters of environmental control. With the formation of the Ontario Water Resources Commission in 1956 new sources of funds were made available to municipalities for the development of improved water and sewage facilities. Stringent standards of performance and construction were developed. Approval of sewer or waterworks had to be obtained from the Commission. At this time, a Provincial sanitary inspection team was formed to inspect, survey and sample treatment facilities and surface and ground water resources. Of necessity, a close working relationship developed between the Commission's staff and the senior political and administrative personnel in municipalities throughout the Province.

It was around the same time that the Province took greater initiative in the area of air pollution. By 1963 the Province had formed the Air Pollution Control Service in the Department of Health. The Province assumed an approval function for air pollution control equipment being installed in industrial and government facilities.

Within Niagara, the late 1960's saw a further emergence of strengthened environmental programs at the Provincial and Regional levels of government. In 1968 The Air Pollution Control Act was passed which removed the regulatory function from municipalities and placed it clearly in the hands of the Province where it rests even today. With the formation of a new level of government - the Regional Municipality of Niagara - a major portion of the responsibility for sewage and water facilities was removed from the area municipalities. As an example, one might choose the Grimsby sewage treatment plant. During the mid 60's the Ontario Water Resources Commission was actively discussing (with Grimsby, Beamsville, Lincoln, etc.) the financing of small sewage treatment plants to service separately each of these communities. However, in 1968, when The Municipality of Niagara Act was passed, forming regional government in Niagara, very strong powers were given to the Regional Municipality under parts 3 and 4 of The Act which assigned the powers and responsibilities to the Regional Municipality for the provision of sewage and water treatment systems. These two sections of The Act provided the means for the Regional Municipality to assume responsibility for the operation of many facilities which were previously operated by either the Ministry or by the area municipalities. Since the Regional Municipality was now assuming responsibility for the operation of treatment facilities, the earlier discussions of the Commission with area municipalities were terminated and the Regional Municipality commenced its own studies on the location and size of treatment plants. It was as a result of these studies that a decision was made to build the treatment facility being constructed at Grimsby. The design of this plant is such that it will service a much greater area than just Grimsby for the next 20 years.

As is evident from the foregoing, over the years the area municipalities' responsibilities in the environmental field have been eroding. In Niagara, it is only in the matter of solid waste collection and disposal that the area municipalities retain their former responsibilities for development and operations. The area municipalities are, however, closely regulated by the Province in the disposal of such waste.

Prior to 1974, the Ministry of the Environment's presence in Niagara was not highly evident since most of the Ministry's operation was centralized in Toronto. However, in 1974 the Ministry undertook a major reorganization and re-deployed a number of its employees in communities throughout Ontario. In the area principally of the Grand River Watershed, the Ministry established its West-Central Region with its main office in Stoney Creek. At the same time, it established a district office in Welland for the purpose of making the Ministry more conveniently accessible to the municipalities, the public and the organizations which are involved in or affected by the Ministry's services. In selecting Welland, the Ministry was seeking a location where no one wishing to

contact the Ministry would be more than 50 miles from the district office. In actual fact, for those within the boundary of the Region of Niagara no one is more than 30 miles from this office. In addition to regionalizing the structure, the Ministry also re-assigned the responsibilities of its inspection and monitoring staff. These people were now assigned responsibility on a client basis. This change meant that now only one provincial officer would maintain contact with a client on a regular basis and would be responsible for dealing with all environmental matters whether they be related to air, water, or land.

The most recent event affecting environmental programs in the Region of Niagara was the signing of an Agreement in 1974 between the Ministry and the Regional Municipality of Niagara regarding the provision, financing and rate structures for sewage and water works in the Region. This Agreement is a milestone in understandings between municipalities and the Province. The Agreement is unique to Niagara and as such will not be found in any other region of Ontario. The main features are as follows:

- (a) - The Province will transfer ownership of Provincial works to the Regional Municipality.
- (b) - The Regional Municipality will operate, supervise, control, maintain and administer the provincial works in conjunction with the operation of the regional works at the sole expense of the Regional Municipality.
- (c) - A schedule of future construction has been set forth in the Agreement.
- (d) - The Regional Municipality will control the connection of area municipalities' collection and distribution services to regional works.
- (e) - The Province will retain responsibility for the design of sewage works and water treatment plants.
- (f) - The Regional Municipality will be responsible for the design and construction of regional works.
- (g) - The Regional Municipality will pay the Province for treatment as set out in the Agreement and these amounts will be uniform throughout the region.

The general terms of the Agreement have reinforced the authority given the Regional Municipality in the sewage and water field. The specific condition regarding uniform rates is clearly annoying to some of the older area municipalities with installed facilities. Under the uniform rate agreement the charges levied against the area municipalities by the

Regional Municipality will reflect capital construction costs throughout the Region. Thus the costs of the new facilities at Grimsby and Virgil will not be borne by just these communities but will be added in to all of the other sewage and water capital costs in the Region and the rates then calculated on an equalized basis. As a result of the Agreement, the Ministry through its Project Co-ordination Branch makes all applications directly to the Ontario Municipal Board and the Environmental Hearing Board on behalf of the Region. In these cases, the Ministry is considered to be the proponent of the project but, as evidenced by a recent hearing relating to Palmerston, the Ministry is not always successful before its own hearing board.

With the increased presence of the Ministry in Niagara, the significant role of the Regional Municipality in environmental matters, the improvement of standards by the Ministry, the increased funding and approval activity, and, in general, the increased interdependence between programs, there has emerged in Niagara a need for increased intergovernmental coordination and cooperation.

CHAPTER 2 - THE BASIS FOR ENVIRONMENTAL PROGRAMS IN NIAGARA

Today, the environmental protection programs delivered in Niagara have their basis in five Acts. These are:

The Environmental Protection Act, 1971
 The Ontario Water Resources Act, 1970
 The Pesticides Act, 1973
 The Environmental Assessment Act, 1975
 The Regional Municipality of Niagara Act,
 Parts 3 and 4.

It is the intent of this section to discuss briefly the pertinent sections of the Acts as they relate to Niagara and outline briefly the impact they are having on the people, the organizations and on intergovernmental interaction in the Region.

A - The Environmental Protection Act

The purpose of the Environmental Protection Act, 1971 is "to provide for the protection and conservation of the natural environment".¹

The provisions of The Act and its associated regulations provide the means for the Ministry to implement programs relating to air pollution (emissions and noise), waste management and disposal, and litter management and disposal. It is through this Act that the important programs have been developed relating to industrial and municipal air emissions, solid waste disposal sites and private sewage disposal systems (cesspools, septic tanks).

The Act confers considerable powers on the Minister and the employees of the Ministry. It provides for studies into:

- (a) - The quality of the environment in any geographic area - including the provision for ongoing monitoring,
- (b) - Meteorological conditions,

1 - Environmental Protection Act, 1971, Part 1, Section 2

- (c) - Environmental planning designed for the wise use of the natural environment by man.

It provides for the giving of grants and loans to be used for:

- (a) - research or training of persons on matters relating to contaminants, pollution, wastes or litter,
- (b) - the development of waste management facilities.

It allows for the establishment and operation of demonstration and experimental waste management systems, litter disposal sites and (private) sewage systems; for the appointment of committees to perform advisory functions, and for the entering into agreements with governments and persons on matters relating to the protection and conservation of the natural environment.

The Act also allows the Minister to appoint provincial officers who principally work out of the regional and district offices of the Ministry. A provincial officer:

- (a) - may survey, examine, investigate and test anything he has reason to believe is or may be a source of contaminant and must, after completing a survey, report his findings and recommendations,
- (b) - must furnish the person who is responsible for the source of a contaminant with a copy of his report.

Certain Directors within the Ministry of the Environment have under this Act been furnished with the powers to issue orders to control or stop operations which are discharging contaminants. Such orders are usually issued on the basis of reports from the provincial officers.

The significance of the above legislation may be seen in many of the environmental activities being carried out in the Region of Niagara. Under this legislation the Ministry has:

- (a) - developed the Air Pollution Index and Alert Systems and installed the appropriate monitoring equipment in Welland and Niagara Falls,
- (b) - established a Resource Recovery Committee to consider the possibility of utilizing combustible garbage from throughout the Region for steam generation at the Thorold plant of the Ontario Paper Co. The Committee consists of two sub-committees - one, a policy advisory committee composed of the Chairman of the Public Works Committee of the Regional Municipality, one

political representative from each area municipality and technical representatives from the Regional Municipality and the Ministry - the second is a technical co-ordinating committee with technical representatives from the area municipalities, the Region and the Ministry,

- (c) - conducted studies jointly with the Regional Municipality on regional landfill sites,
- (d) - conducted studies with the Regional Municipality on the adequacy of private sewage systems.

B - The Ontario Water Resources Act

The purpose of the Ontario Water Resources Act is to allow the Minister to:

- (a) - "construct, acquire, provide, operate and maintain water works and to develop and make available supplies of water to municipalities and persons",
- (b) - "construct, acquire, provide, operate and maintain sewage works and to receive, treat and dispose of sewage delivered by municipalities and persons",
- (c) - "conduct research programs and prepare statistics",
- (d) - "disseminate information and advise with respect to the collection, production, transmission, treatment, storage, supply and distribution of water and sewage".²

The Act also provides that the Minister may:

- (a) - "make agreements with any one or more municipalities or persons with respect to the supply of water or the reception, treatment and disposal of sewage",³

2 - Ontario Water Resources Act, Section 17(1)

3 - Ibid. Section 17

- (b) - "control and regulate the collection, production, treatment, storage, transmission, distribution and use of water for public purposes and to make orders with respect thereto".⁴

As with the Environmental Protection Act, this Act also allows for the appointment of provincial officers who have the powers to inspect, monitor and survey both the natural environment within the Region and structures and operations which are sources of contaminants. When any municipality enters into an agreement with the Ministry under this Act then the Minister (or his representatives) will act for the municipality before the Ontario Municipal Board.

The implementation of works by all three levels of government under the provisions of this Act has raised serious questions in Niagara about control of development and protection of farmlands. The Ministry claims it enters into agreements under this Act to protect the environment yet it is evident that considerable pressure emanates from area municipalities who wish to take advantage of the provisions of The Act to extend services and thus expand urban boundaries. The treatment facilities which are constructed under this Act are usually built with sufficient capacity to accommodate increased demand over a 20-year period. However, since there is as yet no official plan for the Niagara Region critics have accused both the Ministry and the Regional Municipality of controlling the size and direction of development in Niagara by the location, type and size of treatment facilities developed under this Act.

As a result of the provisions of this Act and the criticism related to project development, the Ministry has attempted to improve its dialogue and consultation with the citizens and area and Regional Municipalities of Niagara. The Act itself sets up provisions for public hearings before the Environmental Hearing Board. As will be discussed later, the Ministry has established, along with the Regional Municipality, a Technical Liaison Committee which meets approximately bimonthly to discuss:

- (a) - status reports on works being developed by the Ministry,
- (b) - status reports on works being constructed by the Regional Municipality,

4 - Ibid. Section 17(1b)

- (c) - questions of a planning nature such as the Regional Municipality's proposed official plan and the location of particular urban boundaries, and
- (d) - the need for joint environmental studies on such matters as infiltration of sanitary sewers.

Under this Act, the Ministry has also worked closely with area municipalities and the Regional Medical Officer of Health to hire consultants and to undertake studies of specific problems relating to local sewage treatment and the supply of potable water.

C - The Pesticides Act

The Pesticides Act warrants comment in this paper not so much in terms of intergovernmental coordination with the regional and area municipalities in Niagara but rather because of the extensive use of pesticides made by the large agricultural community in the Region. This Act, which is administered directly by the Ministry of the Environment, allows the Minister to:

- (a) - "investigate problems relating to pesticides and the control of pests",
- (b) - "conduct research relating to pesticides and the control of pests",
- (c) - "conduct studies of the effect of pesticides and the control of pests on the quality of the environment".⁵

As with the previous two Acts, the Minister may under this Act appoint provincial officers for the purpose of inspection, examination and surveying. However, the significant aspects of this Act relate to the licensing provisions of operators, applicators and vendors of pesticides and the associated extermination business. In Niagara, as elsewhere, the Ministry monitors closely the application and sale of pesticides, particularly the large quantities used in food production. The Ministry works closely with a provincially-appointed Pesticide Advisory Committee and with the Pesticides Laboratory at the University of Guelph which is funded by the Ministry of Agriculture and Food. Through these linkages the Ministry monitors the classification of pesticides, and the manufacturers and applicators of pesticides.

D - The Environmental Assessment Act

The purpose of the Environmental Assessment Act is:

"the betterment of the people of the whole or any part of Ontario by providing for the protection, conservation and wise management in Ontario of the environment".⁶

The Act applies to:

- (a) - "enterprises or activities or proposals, plans or programs in respect of enterprises or activities by or on behalf of Her Majesty in Right of Ontario or by a public body or public bodies or by a municipality or municipalities on or after the day this Act comes into force",
- (b) - "only on and after a day to be named in a proclamation of the Lieutenant Governor, major commercial or business enterprises or activities or proposals, plans or programs in respect of major commercial or business enterprises or activities of a person or persons".⁷

Under the conditions of this Act a municipality (or other enterprise designated by the regulations) shall not proceed with an undertaking until:

- (a) - "the environmental assessment has been accepted by the Minister", and
- (b) - "the Minister has given his approval to proceed with the undertaking".⁸

One of the most significant provisions of The Act is found in Section 7 which gives any person the right to inspect the assessment and, by written notice to the Minister, require a hearing by the Environmental Assessment Board with respect to the undertaking.

6 - The Environmental Protection Act, 1975, Section 2

7 - Ibid., Section 3

8 - Ibid., Section 5(1)

The initial impact of the Environmental Assessment Act on Niagara has only been felt in a minor way. Until now, any municipality in consultation with their consulting engineers have rarely been required to consider more than one approach to eliminating environmental problems related to sewage. Now, however, the Ministry is requesting informally that the Regional Municipality and area municipalities consider a range of alternatives and the consequences thereof. This is only the beginning of the far-reaching impact of this new legislation. In the future the Regional Municipality and area municipalities could be required to prepare environmental assessments of the planning, design, construction and operation of major works. Likewise, developments within the Region by private enterprise may be subject to environmental assessment and public review. Critics of this process have argued that it will lead to delays and cancellations of projects while others have stressed the benefits to the environment and the citizens of an early review of future developments.

Niagara, in the shadow of the Toronto-centered area of the Province and with corresponding development pressures, will surely be an early testing ground for this new legislation.

E - The Regional Municipality of Niagara Act

The purpose of Parts III and IV of the Municipality of Niagara Act is to set out clearly the powers and responsibilities of the Regional Municipality in the provision of sewage and water systems. The assignments in The Act have placed considerable control in the hands of the Regional Municipality and have brought about additional needs for coordination both with the Ministry and with the area municipalities. They have also provided the means by which the Regional Municipality has assumed responsibility for the operation of many facilities which were previously operated by the Ministry or by one of the area municipalities.

(i) - Waterworks

The Act (Section 27) gives responsibility to the Regional Municipality for establishing, constructing, maintaining, operating, improving and extending water and trunk supply facilities for the purpose of supplying to the area municipalities water for the use of the area municipalities and their inhabitants. Responsibility has also been assigned to the Regional Council to fix rates to be charged with the Region for water supply (Section 34). The rates charged by the Regional Municipality must be such that the

revenues of the waterworks will be sufficient to make the system self-sustaining after providing for such maintenance, renewals, depreciation, debt charges and reserves as the Regional Council thinks proper.

Parts III and IV of The Act provide the Regional Municipality with both a powerful environmental weapon and a means to control regional development. The Act is quite specific:

"The Regional Council may pass by-laws establishing standards for and regulating and governing the design, construction and maintenance of local water distribution works by the area municipalities and may provide in any such by-law for the inspection of such local works, and every municipality and local board shall conform to such by-laws".⁹

The Act goes on to state that

"no area municipality or local board thereof shall construct or extend any local water distribution works or connect the works of any part thereof to any work or main of the Regional Corporation without the approval of the Regional Council".¹⁰

Appeal of Regional actions is to the Ontario Municipal Board. Even with this provision, however, it is clear that the powers designated to the Regional Municipality under this Act have created some ill-will between the Regional Municipality and some of the area municipalities who resent the authority the Regional Municipality can wield over their affairs.

(ii) - Sewage Works

The provisions of The Act as they relate to sewage works are very similar to those for waterworks. Again here, the Regional Municipality may pass by-laws to construct, maintain, etc., sewage treatment and trunk sewer systems for the purpose of collecting and treating sewage and land drainage from the area municipalities. The Regional Council may again pass by-laws respecting standards of construction (Section (56)) and rates (Section (58)) as they affect the area municipalities.

9 - The Municipality of Niagara Act, Section 40(1)

10 - Ibid., Section 40(2)

The Act does provide under Section (59) a permissive means by which the Regional Council may contribute up to 25 per cent of the total cost to any area municipality for the separation of sanitary and storm sewers which were constructed or were under construction prior to January 1969. This is particularly relevant in situations such as Port Colborne where there are apparently major infiltration problems.

F - Impact on Interaction and Coordination

The Provincial environmental legislation itself brings about intergovernmental interaction and coordination, not only between the Province and the Regional Municipality and area municipalities, but also between the Regional Municipality and the area municipalities themselves. There are common features in all of the environmental legislation which encourage consultation between the governments. These can be summarized as follows:

(i) - Each piece of legislation administered by the Ministry of the Environment allows for the appointment of provincial officers. These individuals, working within the Region, meet on a day-to-day basis with local government officials to inspect works, to discuss solutions to environmental problems, to clarify legislation and to coordinate survey and inspection activities.

(ii) - Each provides for the conduct of studies and research. Such activities are not carried out in isolation. They tend to be discussed among the government bodies involved, at all three levels, before, during, and after a study is completed. If an outside consultant is to be hired, usually this is done by the area municipality or the Regional Municipality in consultation with the Province.

(iii) - Each provides for grants or loans for the purpose of conducting research and for the planning, design and construction of facilities. Expenditures of funds by the Province require close consultation and careful development of terms of reference and project requirements with the local government(s) involved before funds are made available.

(iv) - Each allows for the appointment of committees. These have apparently been used quite effectively in the Niagara Region and the Ministry has taken the opportunity to establish ongoing committees to discuss recurring issues relating to funding of works, landfill needs and general environmental problems common to the Region. At the same time, the Ministry has established specific committees to look after particular environmental problems such as waste reclamation and infiltration.

(v) - Each contains a preventative function referred to in the legislation as "approvals". This function has particular significance for intergovernmental interaction and will be discussed more fully in a later section.

Environmental legislation and at least the environmental portion of general legislation establish the means by which regional and area municipalities can provide many of the major works which we have come to accept as part of our everyday lives. This includes sewer facilities, water facilities, incinerators, and landfill sites. The facilities which are designed to insure clean ambient water and air are approved, often funded and inspected by the Ministry of the Environment. It is inevitable that whenever such day-to-day contact is required by law, then the involved parties will establish channels for each interaction. In the case of the environmental programs, this interaction is not as diffuse as it might seem. At the Province, responsibility rests with the Ministry of the Environment. Within the regional and area municipalities, interaction is achieved through the public works departments. The Ministry of the Environment is thus not dealing with a wide range of department heads at the regional and area municipal level but rather develops a close relationship with a select few.

CHAPTER 3 - THE DIVISION OF RESPONSIBILITY

Environmental programs fall into three basic categories: assessment, abatement and enforcement. In assessment activity the ambient condition of the environment is monitored to determine the extent to which pollution or contaminants exist in the air, water or land. Abatement activity is usually related to the installation of equipment which will prevent pollution or contaminants from being emitted into the environment at a level above the natural capability of the environment to absorb such contaminants. Enforcement activity consists of monitoring and inspecting abatement programs to insure that they are functioning in the manner for which they were designed.

In Niagara assessment programs of the general environment are carried out exclusively by the Ministry of the Environment. This includes the monitoring and surveying of the ambient air, the ground water and the surface water. Assessment of specific environmental concerns is usually conducted by the Regional Municipality or the area municipalities with the assistance of the Ministry. This would be the case with studies of sewage and water expansion, sludge disposal, infiltration, sewage problems (septic tanks), waste reclamation and landfill and litter surveys.

Responsibility for abatement or prevention of discharges into the natural environment rests with the creator of the pollution. For this reason the Ministry itself does not become directly involved with the installation of equipment or facilities for environmental protection unless it is on an experimental or research basis. In Niagara the installation and operation of the non-experimental equipment rests with the affected industry or municipality. To insure proper installation of equipment the Ministry has developed a comprehensive approval function wherein it reviews and passes judgment on each installation.

The Ministry has retained the enforcement function almost exclusively unto itself. While both the regional and area municipalities might under certain circumstances take measurements of contaminant emissions, it is the Ministry which has developed a well-trained inspection team which regularly inspects both industrial and municipal installations throughout Niagara. It is also the Ministry which has the authority to issue control or stop orders against any offending party.

A summary of the assignment of environmental responsibilities in Niagara is as follows:

(i) - Exclusively Ministry

Industrial air, water, and waste inspections
and abatement programs;

Municipal air and pesticide abatement programs;

Municipal landfill site inspections;

All environmental licences and approvals other than approval of private sewage systems;

Air quality assessment;

Water quality and quantity assessment;

Provincial project development and construction.

(ii) - Exclusively Regional Municipality

Operation of water and sewage treatment plants;

Maintenance of water and sewage treatment plants;

Approval of private sewage systems;

Regional project development and construction;

Initiating expansion of treatment facilities.

(iii) - Exclusively Area Municipality

Litter surveys;

Development, construction and operation of local water distribution and sewage collection systems;

Initiating expansion of distribution and collection systems;

Garbage collection;

Waste disposal sites.

(iv) - Shared - Ministry/Regional Municipality

Inspection and monitoring of sewage and water treatment plants;

Contingency plans - Ministry - Technical advice;
- Region - management of
clean-ups.

Pollution engineering surveys relating to treatment plants;

Regional Waste Reclamation studies.

(v) - Shared - Ministry/Area Municipality

Abandoned automobile surveys;

Pollution engineering surveys relating to
systems expansion and infiltration.

(vi) - Shared - Region/Area Municipalities

Maintenance of distribution, collection and
pumping systems.

CHAPTER 4 - ORGANIZING FOR THE DELIVERY OF ENVIRONMENTAL PROGRAMS

This chapter describes the structures which have developed at the Province, the Regional Municipality and the area municipalities for the implementation of environmental programs.

A - Ministry of the Environment

The Regional Director in the Ministry's West Central Region has been assigned responsibility for policy implementation and the delivery of services in the areas of environmental protection and regional environmental assessment. Considerable authority has been delegated to the Regional Director and he may issue control orders on polluters including any municipality within Niagara. The Ministry's Regional Office provides a strong base of administrative support and technical expertise to back the delivery of services. Its programs in Niagara are carried out by three sections: Industrial Abatement; Municipal and Private Abatement and Technical Support (environmental monitoring and planning). An organization chart is included overleaf.

(i) - Industrial Abatement

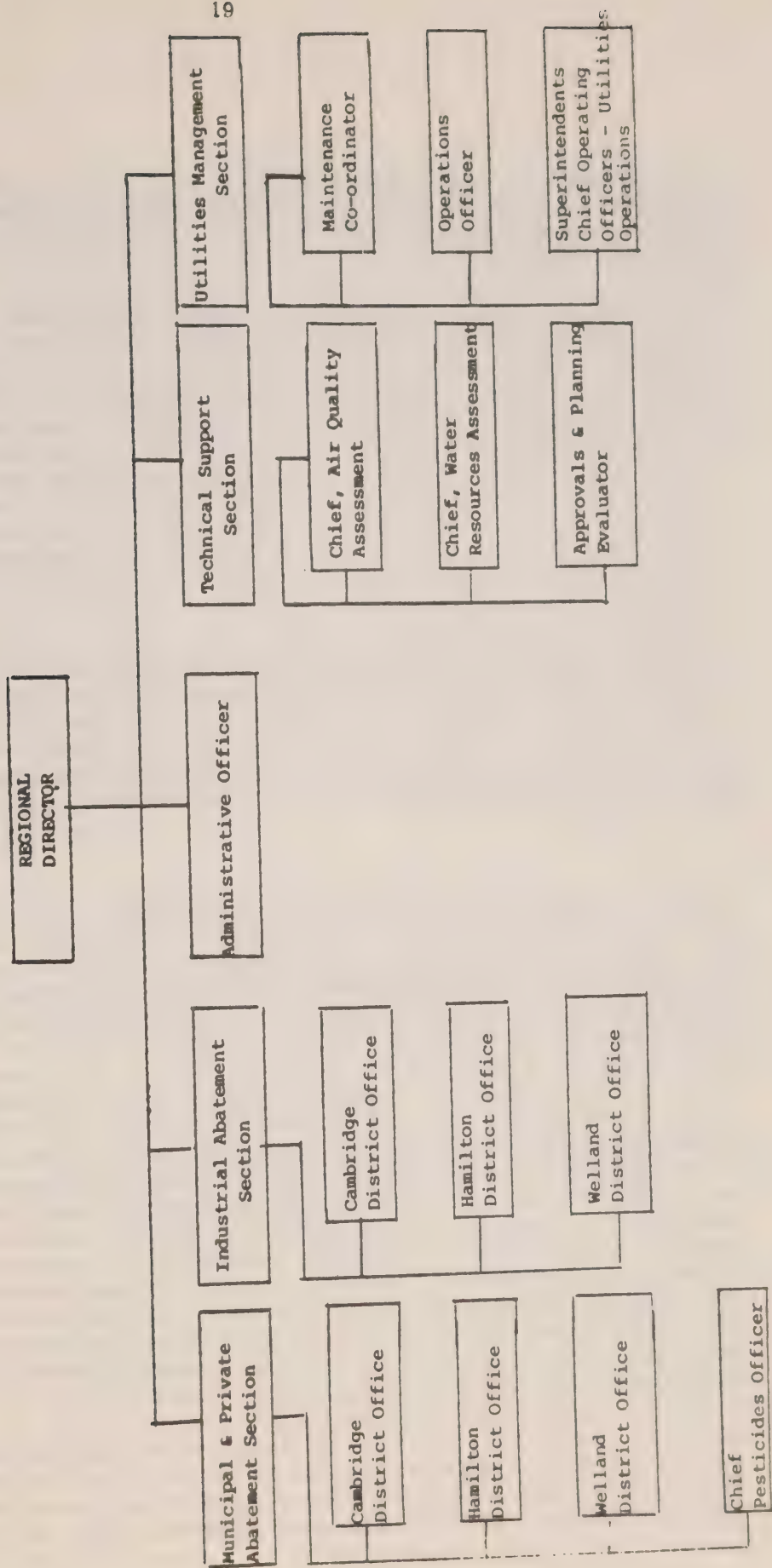
The Industrial Abatement Section is responsible for the protection of the natural environment from emissions from many sources, including industrial processes, commercial and agricultural operations, construction and demolition activities, and from certain activities of individual citizens.

Industrial abatement staff make investigations into a wide range of environmental complaints, initiate abatement action and ensure that problems outside its jurisdiction are referred to the proper authority (municipal or federal). They also provide information to industry and to the public on the current technology for controlling existing sources of pollution. If process changes are required when expansion is anticipated or when hazardous wastes need to be disposed of, this section is involved.

The Industrial Abatement Section is also responsible for routine industrial surveys. In addition, where there is a particular pollution problem their work will involve direct observations by the field personnel and the use of

EXHIBIT 1

WEST CENTRAL REGION
REGIONAL OFFICE STONEY CREEK



sophisticated monitoring devices for soil, water or air sampling followed by physical and chemical analysis. Often such work will result in a control or stop order or even court action.

In addition, this section is responsible for surveillance under the Air Pollution Index and Alert Systems for Welland and Niagara Falls. It provides on a regional basis, a 24-hour engineering assessment and coordinating function under the Ontario Contingency Plan for transportation and other emergency spills. The emergency calls are usually taken by the Niagara Regional police or the area municipal fire departments who then call the Ministry to provide the coordination and assess the environmental damage. The Ministry usually decides if Regional Municipal, area municipal or private equipment will be used in the clean-up.

In addition to the foregoing, this section's activities include liaison with municipal, provincial and federal agencies including local fire, police, health, by-law enforcement and works departments, the Provincial Health, Agriculture and Food and Labour Ministries and the Federal Ministry of Transportation and Department of the Environment.

(ii) - Municipal and Private Abatement

The Municipal and Private Abatement Section is responsible for the field program designed to enhance and protect the environment in matters relating to activities of municipalities and citizens.

This section surveys liquid discharges into water for the purpose of detecting pollution emissions; surveys land areas to locate litter and derelict vehicles; inspects communal water and sewage works, waste disposal sites, marinas, boats, ice shelters, pesticide application, storage and sales, water wells, derelict vehicle sites, septic tank systems, sewage holding tanks and disposal sites for liquid waste from septic tanks, holding tanks and sewage treatment plants to ensure compliance with the Environmental Protection and the Ontario Water Resources Acts and their regulations; and investigates complaints regarding the protection of the environment.

Following the findings of pollution surveys, inspections and complaint reviews, a remedial program is undertaken, which includes issuing orders, reports, directions, control orders and initiating prosecutions as required.

This section monitors inputs to the environment, such as sewage treatment plant effluents; provides technical advice to municipal officials, consultants and citizens on matters relating to the protection of the environment; responds within the contingency plan framework to sewage overflows, breakdown in water supplies and pesticide spills; collects preliminary data to determine cause of fish kills; and aids in the approval of waste disposal sites, sewage lagoons, sewage treatment plants and water works by undertaking site inspections and inspects works under construction to ensure they are installed according to approved plans.

(iii) - Technical Support

The Technical Support staff are involved in monitoring and evaluating changes in the environment; coordinating regional environmental impact assessment statements; and evaluating the effectiveness of the Ministry's abatement programs.

Three sub-sections make up the working units of this section: Planning and Approvals; Air Quality Assessment; and Water Resources Assessment.

The Planning and Approvals staff review official and sub-division plans, solicit comments from the abatement and assessment groups and coordinate comments regarding the Ministry's concerns for the possible effects of such plans on the environment. The withdrawal of water from streams, lakes, ponds and wells is regulated by permits issued by this sub-section to ensure that withdrawals do not result in environmental degradation or in hardship to neighbouring water users.

The Air Quality Assessment sub-section is responsible for monitoring and assessing the quality of the ambient air in the Region. It provides the "feed-back" loop for the air programs of the Industrial Abatement Section. The group establishes and operates an extensive network of sensors to obtain data on air pollutant concentrations and meteorological conditions. Special surveys are conducted to identify specific sources of contaminants, determine whether they are in compliance with standards and criteria, and to provide air quality data for the preparation of impact assessment statements. New instrumentation and techniques to improve accuracy and sensitivity are being developed and evaluated continuously. The network is expanded to include new pollutants. Data collected are analysed and interpreted to define air pollution areas, to assess the effect of industries on air quality, to establish planning and zoning regulations, to assess the effectiveness of abatement

programs, to determine air quality trends, and to help assess effects of air pollution on health and damage to vegetation and materials. The Air Pollution Index is used to restrict the emission of pollutants whenever the value exceeds set criteria. The group assists in the development and assessment of future abatement strategy.

The Water Resources Assessment Group is responsible for: monitoring the quality and quantity of water within the Region; responding to complaints on water interference or water quality; preparing impact assessment statements and undertaking resource assessment surveys of drainage basins and lakes. A network of surface water and ground water stations for determining the quality and quantity of water is maintained and is expanded to meet development needs. A service to advise citizens wishing to drill wells is also provided. Physical, chemical and biological sampling and analysis are conducted; impact of development on the quality and quantity of water is assessed; recommendations are made on what is required to minimize or correct degradation of the environment; methods are developed and utilized to determine the amount and variability of streamflow and ground water storage.

B - The Regional Municipality of Niagara

The Regional Municipality of Niagara administers its environmental programs through the Public Works Department which is composed of four divisions - the Roadways Division, the Pollution Control Division, the Projects Division, and the Water Division. This one department is thus responsible for both sewage and water programs as well as transportation programs, although the latter will not be commented upon in this report.

(i) - The Pollution Control Division

The Pollution Control Division is responsible for the operation of the Regional Municipality's sewage treatment plants, the majority of the pumping stations and the sewage lagoons. In addition, the division is responsible for the sludge disposal program for the Region.

This division operates the sewage works in:

Niagara Falls - Stamford/Niagara plant
- Chippewa plant

Niagara-on-the-Lake - lagoon

Garden City Raceway - lagoon

St. Catharines - Port Dalhousie plant
 - Port Weller plant

Welland plant

Welland - Pelham (Fonthill) flume

West Lincoln - Smithville - lagoon

Grimsby - Main plant
 - Beach plant

Lincoln - Beamsville plant

Grimsby - Biggar - lagoon

Port Colborne - West side plant
 - East side plant

Fort Erie plant

Fort Erie - Crystal Beach plant

The plants operated treat sewage coming from the large number of collector systems operated by the area municipalities. These plants are closely monitored by the Ministry who require regular sampling and testing of the effluent. Some of them are operating at, or over, design capacity and the Ministry has found it necessary to control increased flows into the affected plants. "Offending" area municipalities (those responsible for the flows) are limited in their further urban development until the treatment facilities can be enlarged. The area municipality is, in fact, assigned an allotment arrived at through joint discussions of the Ministry, the Regional Municipality and the area municipality, with the Ministry directly informing the area municipal council of such a decision.

The treatment facilities receive industrial effluents. These wastes often contain heavy metals, oils, grease and chemical compounds which interfere with the operations of the plants. While the Ministry assumes responsibility for monitoring the water emissions from industrial plants for environmental reasons the Regional Municipality also monitors these same industries to ensure that the wastes do not interfere with the operations of sewage treatment plants.

(ii) - Water Division

The Regional Municipality of Niagara operates a number of water treatment facilities for the purpose of providing potable water which is distributed by the area municipalities to the ultimate consumer. The Regional Municipality also has plans to construct eight new plants to serve the expanding needs of the Region. Due to differences in local by-laws regarding fluoridation, some of the inter-connections which the Regional Municipality hoped to achieve have not come to fruition. The quality of water supplied from these plants is regularly sampled and tested by the Ministry.

The facilities operated by the Region are:

- De Cew Falls Water System
- Merritton Water System
- Niagara Falls Water System
- Welland Water System
- Port Colborne Water System
- Fort Erie - South End
 - Bertie
 - Crystal Beach
- Thorold - Main Water System
 - South Water System
- Port Robinson Water System
- Grimsby Water System
- Vineland Water Treatment Plant
- Beamsville Water System
- Niagara-on-the-Lake/Niagara Water System
- Niagara-on-the-Lake/Well System
- Pelham/Fonthill Water System
- West Lincoln/Smithville Water System

(iii) - The Projects Division

The Projects Division is responsible for the development and construction of regional works relating to sewage, water and roads. The Regional Municipality's policy on storm sewer cost sharing is also administered through this division. It has worked with a number of area municipalities under this program and is now finding that further coordination is required in regard to storm drainage. A major proportion of the day-to-day responsibility of this division is the calling for tender and administration of contracts for the construction of regional sewage and water systems but this is not a major factor in intergovernmental coordination.

The activities of the approvals section of this same division, however, does necessitate a high degree of coordination with area municipalities. The Regional

Municipality has a legal requirement to operate sewage and water facilities and to control connections by area municipalities and this division has found it necessary to form a section to review the planning and development of area municipalities. Each application is reviewed and discussed with other divisions of the Public Works Department and with the Planning and Development Department to determine servicing requirements, existing and proposed plant capabilities, and the effect of the proposal upon Regional and adjacent lands.

The type of applications which the Division would review include land division committee applications (severances), development applications (invoking both zoning by-laws amendments and site plan agreements), official plan amendments, and draft plans of subdivision and ensuing registered plans.

The Division also reviews distribution and collection projects to be undertaken by area municipalities and forwards its comments on an advisory basis to the Ministry of the Environment where formal approval is given. Each application is reviewed to ensure consistency with minimum Regional criteria and to evaluate both present and future effects. The findings are discussed with the Planning and Development Department. The type of projects reviewed are as follows: sanitary sewer, storm sewer, water main, reservoirs, and municipal servicing of subdivisions. Notices of Intention by area municipalities are checked by this Division prior to seeking the consent of Regional Council to request permission of the Ontario Municipal Board to issue debentures for projects. This checking is done to confirm that the works conform with planning documents, such as Official Plans (area and regional) and that the servicing is coordinated with regional municipal facilities.

C - The Area Municipalities

The majority of area municipalities within Niagara administer their environmental programs which include water supply, sewage collection, litter control and solid waste collection and disposal through their Engineering or Works Departments. In a few cases the garbage collection and disposal function have been separated out and are administered by the Clerk's Office.

Day-to-day operations of the above "works" do not lead to regular interaction between area municipalities or between the area municipalities and the Regional Municipality. However, on specific items or problem areas ad hoc task forces and

informal linkages may develop. This would be the case when discussions take place regarding the connection of area municipality water and sewage services with Regional Municipality facilities, or when infiltration problems are studied, or when waste disposal alternatives are considered. The above interaction and coordination is usually informal and is primarily carried out by the civic servants involved but from time to time special committees of elected and appointed people may be set up to deal with major issues.

The disposal of contaminants from spills has led to co-operative discussions between the area municipalities and the Ministry. On occasion, the Ministry must call on an area municipality to accept toxic or undesirable materials at their waste disposal sites even though local by-laws may not permit such disposal. In these cases the Ministry would send in their assessment people to evaluate the best method of disposal and then in consultation with the area municipality develop a program for the handling of the waste. This cooperative approach has been most beneficial to the Ministry in the development and implementation of an effective contingency plan for the region.

CHAPTER 5 - ENVIRONMENTAL APPROVALS

Environmental approvals are a key activity affecting inter-governmental coordination and for this reason the functioning of the Ministry's head office Environmental Approvals Branch will be briefly described and the range of Ministry approvals will be outlined.

A - Environmental Approvals Branch

The Environmental Approvals Branch reviews and approves all applications required by the Ministry under the Environmental Protection Act and the Ontario Water Resources Act. There are four distinct sections within this Branch.

The Municipal and Private Approvals Section reviews and makes recommendations regarding the acceptability of all proposed water and waste-water treatment systems and all waste management facilities, either municipal or private. The Section reviews and makes recommendations concerning the issuing of licences and permits required for waste management systems. In addition, the Section develops design criteria and guidelines for use in the development of water, waste-water treatment and waste management systems to ensure that consistent and acceptable design standards are implemented.

The Environmental Assessment Section evaluates, at the conceptual planning stage, any activity of other ministries of the provincial government, utilities, projects funded by the government and related activities in the private sector which will have a significant environmental impact.

The Land-Use Coordination and Special Studies Section acts in an advisory capacity to the Regional Offices, to other branches of the Ministry, to other ministries, to municipalities and to the private sector to ensure that necessary environmental safeguards are incorporated into land-use policies and programs. The Section is concerned with matters relating to the environment and land-use such as subdivisions, official plans, planning and development proposals of regional significance, new town proposals, conceptual plans for water and sewer services, solid waste disposal facilities and river basin planning studies.

The Industrial Approvals Section assesses the technical adequacy of all applications from industry required by The Environmental Protection Act and The Ontario Water Resources Act. The Section is concerned with the construction of

facilities, involving equipment and treatment systems to achieve the Province's desired objectives and requirements for air and water quality control.

B - The Approvals Function

The principal preventative mechanism available to the Ministry is the pre-development review or, as it is commonly known, the approval process. This process refers to an activity leading to the issuing of a document or an authorization to proceed by the Ministry which may fall into any of the following categories:

- (a) - Licence - "An approval to person or company to perform certain general functions, for a specified period of time in accordance with regulations",
- (b) - Permit - "An approval to a person or company to perform a function in a specific situation or at a specific location, in accordance with regulations or conditions (general or specific)",
- (c) - Certificate of Approval (two types) -
 - 1. "An authorization to initiate establishment, construction or alteration of a thing and/or process including right to operate, all in accordance with the act and regulations, guidelines, etc.;
 - 2. as above, but without right to operate until a permit is issued",
- (d) - Quasi-Approvals - "An approval, advice or recommendation on technical policy aspects within the competence of the Ministry, which is used as input into the decision-making process of the Ministry of the Environment; another ministry or group having ultimate responsibility for an approval".

The process of obtaining "approval" necessitates formal contact between the Ministry of the Environment and the proponent who may be an individual, an industry or a government. Usually a number of informal discussions are held prior to a formal submission being made to the Ministry.

The aim of the proponent in dealing with the Ministry is to obtain approval for the construction and operation of its

facilities. The proponent will want to ensure that he has provided sufficient information on the type of development and the expected impacts in order that the Environmental Approvals Branch can initiate its procedure to review the application. If a major project is being proposed, the review will include analysis by the Branch, technical assessment by other branches of the Ministry, input from the Ministry's regional abatement and assessment personnel and input from the affected governments. As a result, the staff of the Branch may initiate discussions with a number of parties before approval is given or denied.

Formal approval of capital projects must be given by the Ministry. The provisions of The Regional Municipality of Niagara Act, however, allow the Regional Municipality to review area municipalities' proposals and submit its opinions to the Ministry. This duplication of review is frustrating the area municipalities who are finding that their time in consultation has more than doubled.

Environmental Assessment Program

The most significant development in the approvals activities within the Ministry has been the creation of the Environmental Assessment Program - a program designed to assist in the prevention of environmental damage and to involve the public in the evaluation of major developments which will affect the environment.

At the ceremonies (1973) marking the completion of new treatment facilities at the Ontario Paper Company's Thorold Mill, Premier Davis asserted the need for such an assessment system.

"The net effect of this type of before-the-fact assessment would be to help us avoid environmental pitfalls at the outset. New projects could be analysed at the conceptual stage to allow for possible changes. Pollution control would begin at the drawing board rather than being imposed long after a facility has been built."

The objectives of the Environmental Assessment Program, as set out in the Green Paper on Environmental Assessment, 1973 were:

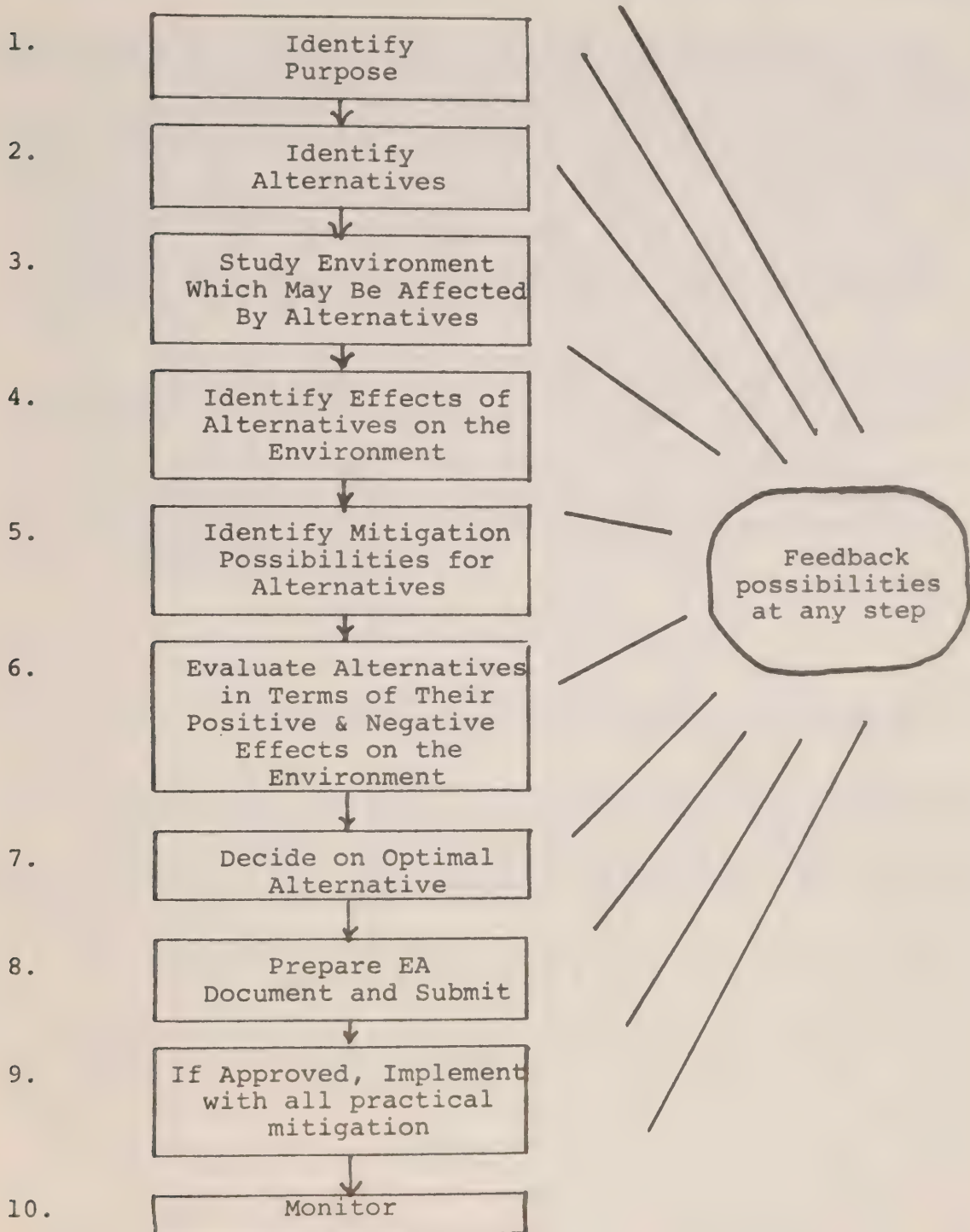
- (a) - To identify and evaluate all potentially significant environmental effects of proposed undertakings at a stage when alternative solutions, including remedial measures and the alternative of not proceeding, are available to decision-makers;

- (b) - To ensure that the proponent of an undertaking, and governments and agencies required to approve the undertaking, give due consideration to the means of avoiding or mitigating any adverse environmental effects prior to granting approval to proceed with the undertaking.

The definition of "environment" in The Environmental Assessment Act, 1975 is set out in the broadest terms and includes not only the natural environment but also "man" within the environment. This means that an environmental assessment must also take into account social and economic factors, and the broader planning goals of the Province and the Regions.

Major municipal projects will be subject to evaluation under this Act. Municipalities will have to work closely with the Ministry in order to define carefully the terms of reference for any assessment. They will also have to incorporate an environmental assessment into any major engineering studies they conduct. These need not necessarily be just sewage treatment facilities but rather could include major transportation and development proposals. The Municipality will have to seek approval of their assessment from the Minister of the Environment and may possibly face a hearing in front of the Ministry's Environmental Assessment Board.

The process under The Environmental Assessment Act may be seen in the following chart. A flow diagram of The Act may be found in Appendix V. Appendices I - IV contain the basic data relating to licences, permits, certificates of approval and quasi-approvals.

EXHIBIT 2BASIC MODEL FOR ENVIRONMENTAL ASSESSMENT PROCESS

CHAPTER 6 - PROJECT FUNDING

As with environmental approvals, project funding has special significance for intergovernmental coordination. The Ministry assists both the Regional Municipality and the area municipalities to a significant extent in the financing of sewage and water treatment facilities, servicing programs and waste reclamation and other related projects. The Provincial grant on regional works is 15% and the grants for municipal works may range from 0% to 75% of the cost of the project. However, of more significance is the fact that the Ministry underwrites the majority of these projects and then sets up a 30-year amortization schedule in the case of the Regional works and a 40-year amortization schedule in the case of area municipal works. This, of course, has permitted many municipalities to obtain facilities at favourable rates well in advance of their own capabilities to finance such projects.

To focus the project development and implementation functions, the Ministry has assigned to one head office department - Project Coordination Branch - the responsibility of regularly liaising with municipalities. The following paragraphs outline the functioning of the branch and the funding activity.

A - The Ministry's Project Coordination Branch

The Project Coordination Branch coordinates information from various government agencies related to the Ministry's provincially funded capital sewage and water projects, and supervises and coordinates the design and construction of these projects. The Branch administers the application of provincial subsidies to both municipal and provincial capital projects and participates in the allocation of Central Mortgage and Housing Corporation loans for eligible capital projects.

The organization of the Branch brings a project management concept to the development and construction of the Ministry's works. Six project managers, each assigned to one of the Ministry's regions, are responsible for the coordination and control of projects within their regions from the conception to the completion of construction, when the projects are turned over to the Regional Municipalities for operation. This system is designed to improve communication and liaison among Ministry staff, the municipalities and the consulting engineers participating in Ministry projects.

Other sections of the Branch deal with claims arising from construction, ground water development, property, special project developments such as area programs, and municipal projects.

B - The Funding Activity

The shortage of funds for capital works is being felt by all levels of government but nowhere is it more apparent than at the municipal level where development pressures and pollution control needs require massive expenditures for sewage, water and solid waste control facilities. This situation has not bypassed the Region of Niagara where there is a demand for additional services to accommodate housing and industrial development needs. At the same time, there are within older urban centres major pollution problems brought about by antiquated facilities and infiltration problems which should be corrected.

The funds required to satisfy both of these needs are enormous. The municipalities cannot finance them alone and, recognizing this, the Province has established under the direction of the Ministry of the Environment certain programs of financial assistance to municipalities. However, the Province also has only limited amounts of capital available and therefore must carefully evaluate and allocate the money amongst the competing municipalities.

The financial assistance programs greatly influenced the type, location and size of projects carried out within the Region of Niagara. Shortage of funds have limited expansion of facilities needed to accommodate further urban growth. Certain area municipalities within the Niagara Region have been put on allotment system by the Ministry of the Environment which designates the number of new dwellings which may be built based solely on an evaluation of the capacity of the sewage or water plants to supply needed services. These situations arise when through consultation with the area municipality, it is determined that major deficiencies exist in pollution control or water supply.

In order to minimize the occurrence of the above situation, the Ministry and the Region have taken a number of steps to coordinate their activities. The first action was to form the Technical Liaison Committee which meets on a regular basis approximately six times a year. The composition of the Committee is as follows:

Ministry of the Environment

- Regional Director
- Assistant Regional Director and Manager of Municipal and Private Abatement
- District Officer - Municipal and Private Abatement
- Project Manager - Project Coordination Branch

- Additional staff as required for specific problems - e.g. Manager of Industrial Abatement

Regional Municipality of Niagara

- Director of Engineering
- Director of Planning
- Regional Treasurer
- Projects Division Engineer
- Water and Pollution Control Division Engineer
- Development Division Engineer
- Supporting staff for above departments

Niagara Regional Health Unit

- Medical Officer of Health
- Senior Inspector

Recording Secretary

- Ministry of the Environment Officer (Engineer)

Matters discussed in these meetings are of a general environmental nature, and of interest to both the Ministry and the Regional Municipality. If a subject is to be discussed which concerns or affects an area municipality, then that area municipality is invited to attend. The meetings, for the most part, have a financial overtone. The Ministry always gives a status report on all of the Ministry provincial sewage and water projects being carried out in the Region. The Regional Municipality always reports on construction to date of Regional Sewage and Water Facilities. There is always a brief update on the projected cash flow and an update on the current year's expenditures. Beyond these prescribed subjects, the discussion usually turns to specific environmental problems which have come to the attention of either party. These do not require immediate expenditures of funds but may initiate studies which could result in establishing the need for expenditures of funds in the future.

A sub-committee of this committee consists of:

Ministry of the Environment

- Project Manager - Project Coordination Branch
- District Officer - Municipal and Private Abatement

Regional Municipality of Niagara

- Director of Engineering
- Projects Division Engineer
- Water and Pollution Control Division Engineer
- Development Division Engineer

This committee meets as needed but is particularly active during the budget period where it might meet almost daily. Matters discussed centre around technical problems, projected cash needs, and the expenditure of funds under the Ministry's grants for sewage and water works and for waste management area planning studies, particularly as they relate to projects within the responsibility of the Regional Municipality.

As indicated earlier, under Parts 3 and 4 of the Regional Municipality of Niagara Act, the Regional Municipality reviews all local systems which connect to and affect their treatment and trunk service facilities. Because of this review and as a result of the Regional Municipality's evaluation of their own treatment and trunk system needs, the Regional Municipality decides the priority of the Regional works usually on the basis of pollution control requirements. At the same time, however, if financial assistance is required by the Regional Municipality, then an application must be made to the Ministry's Project Coordination Branch in Toronto. Attempting to reconcile the future project construction activities in the light of the Regional Municipality's priorities and the Ministry's available funds is the major concern of the sub-committee of the Technical Liaison Committee. There is no doubt that within Niagara the availability of money is controlling the speed of sewage and water development.

The Ministry has a separate fund for area municipality projects. The allocation of this money is not done through the sub-committee of the Technical Liaison Committee. Instead, the Project Coordinator meets separately with each area municipality to discuss their financial requirements. Often the Coordinator will meet with an area municipality council to discuss the future financial implications of proposed capital works.

The Ministry also has a funding program to encourage regions to examine the improvement of facilities for the management of solid waste. In 1974 the Regional Municipality took advantage of this funding program and as a result has been carrying out a Resource Recovery Study to determine if waste reclamation in the Niagara Peninsula would be feasible. This study is financed entirely by the Ministry of the Environment.

The Ministry has provided financial assistance in joint regional-area municipality studies relating to local pollution problems. This would be the case in the Port Colborne infiltration study currently being undertaken. This type of study is usually conducted by an external consultant with guidance being provided by both a technical committee composed of regional and area municipal civic servants and by an advisory committee of both civic servants and regional and area municipal elected representatives.

CHAPTER 7 - THE ISSUES

Examination of the role of the Ministry of the Environment in the Niagara Region and the ways in which it interacts with the regional and area municipalities reveals a number of issues, some of which might require attention. Interestingly, these issues relate less to what the Ministry does itself than they do to the assignment of responsibilities to the Regional Municipality and the area municipalities. They may be summarized as follows.

A - Planning and Development

Although planning is not a direct responsibility of the Ministry, it should be and is involved in planning decisions in discharging its general responsibility for environmental protection. Such involvement can be contentious. For example, subdivision applications forwarded to the Ministry of Housing are normally sent to the Ministry of the Environment for comment. When the Ministry finds that developers are proposing residential development adjacent to industrial areas and that these two land uses are incompatible, its comment can only be negative. The same problem can arise when industries wish to locate next to residential areas and the Ministry's opposition incurs the displeasure of area municipal officials who believe that industrial assessment is vital to the breadth of the tax base.

More serious than criticism of the Ministry's responsive activities in planning and development is the suggestion that it is proactive and actually determines how, where and when growth will take place. Undoubtedly in the past it has helped to shape development, albeit inadvertently, by the provision of sewage and water systems designed to accommodate growth. Some of the criticism levelled against it in this regard, however, would seem to be unfair. For example, both the Grimsby and Virgil projects, while they predated regionalization in Niagara, were only proceeded with by the Ministry at the request of the Regional Municipality. Many people do not like the impact of these two projects but they can hardly argue that they were undertaken without local approval. Indeed, far from being draconian, the Ministry of the Environment is relatively consultative in its approach and there are many entry points in its processes for the public - in various forms, including at large and through local government bodies. Increasingly, the Ministry has attempted to avoid "planning-by-pipes" and this may therefore be less of an issue than an inaccurate perception of the way in which the Ministry actually operates within the Region.

B - Sewage and Water Treatment

Under the general agreement discussed earlier, the Regional Municipality has responsibility for the development and construction of regional sewage and water treatment facilities and the Ministry is responsible for the development and construction of provincial works but the Regional Municipality is responsible for the operation and maintenance of both. When this agreement was signed it was the opinion of the Ministry that the Regional Municipality had the capability to develop and construct trunk sewers and water facilities and major pumping stations but not to manage the development and construction of major treatment facilities. Officials of the Regional Municipality now believe that it has the competence to manage such developments and are interested in assuming this responsibility from the Ministry. If such responsibilities were given to the Regional Municipality, it would parallel the level of responsibility which is held by the Regional Municipality of Metropolitan Toronto. It would also strengthen the role of the Regional Municipality in relation to the constituent area municipalities and would thus cause the latter some anxiety.

Regardless of whether such a major change in responsibility were made by the Province, there would seem to be some need for adjustment to the jurisdictional and administrative arrangements applicable to sewage and water treatment. For example, in recent years the Ministry of the Environment has promoted the enactment of municipal by-laws to regulate the discharge of waste into both storm and sanitary sewers. In Niagara, this takes the form of a regional by-law, which is not unsatisfactory since sanitary sewers are connected to sewage works operated by the Regional Municipality. However, some storm sewers are owned by the area municipalities and a problem arises with combined sewers which receive both storm and sanitary water. Such sewers are difficult to define legally and area municipalities are understandably reluctant to pay the standard sewage treatment rate for the treatment of storm water! There is no easy solution to this problem but, at least from the point of view of the Ministry of the Environment, it would make sense to amend the Regional Municipality of Niagara Act so as to provide the Regional Municipality with jurisdiction over actual discharges while leaving the responsibility for construction and maintenance with the area municipalities.

Another illustration of the jurisdictional problems associated with sewage and water treatment is provided by private developments, such as motels, where the developer is responsible for establishing the sewage and water treatment facilities. Continuity of such services is, of course, vital but is complicated by the fact that, while the Regional Municipality has

responsibility for operating these facilities, it is the area municipality which must reach financial agreement with the developer. It would be simpler if the Regional Municipality were permitted by law to negotiate the transfer directly with the developer - a change would probably not be resisted by the area municipalities.

C - Approvals Process

All approvals of municipal services whether complex or non-complex are processed through the Environmental Approvals Branch in the head office of the Ministry. In dealing with these approvals the Ministry always forwards a copy to the Regional Municipality for its comments. Increasingly, the Regional Municipality is developing a capability to review these proposals and, as a result, the Ministry is giving considerable weight to the suggestions it makes. Such a process is, however, leading to considerable duplication of effort. On the non-complex projects of the area municipalities considerable time is spent contacting both the Ministry's and the Regional Municipality's approvals groups.

The Ministry is now considering relinquishing the responsibility for such non-complex approvals of sewer and water facilities to the Regional Municipality. The area municipalities, on the other hand, fear such a move since they feel this would place too much control in the hands of the Regional Municipality and could also lead to unnecessary expenditures at the area municipal level since the Regional Municipality tends to insist on what the area municipalities consider to be unnecessarily high quality systems. At present, the area municipalities enjoy the split involvement because it allows them to negotiate between the Regional Municipality and the Province.

D - Solid Waste Management

In recently established regional governments in Ontario, solid waste management has been designated as a regional-level responsibility. In Niagara, it remains as a responsibility of the area municipalities. There are both historical and practical reasons for this arrangement. The collection of garbage and the operation of waste disposal sites have always rested with the area municipalities and have come to be regarded as a measure of their jealously-guarded autonomy.

The Niagara Region, as a whole, is not densely populated and, given as many as twelve area municipalities, any regional consolidation of waste disposal would require considerable trucking of garbage and the establishment of a number of transfer stations. Consolidation, in other words, might not necessarily be more economical and, of course, there would remain the problem of no area municipality being enthusiastic about accepting the others' garbage.

To some extent these problems are not arguments against consolidation for they already occur. Citizens removing their own garbage cannot use the disposal sites in adjacent municipalities even if these are closer than their own. More significantly, while the cooperative venture between four area municipalities to operate a landfill site in Grimsby is successful, it nevertheless requires that waste from Pelham be trucked 16 miles even though there are closer sites in Thorold, St. Catharines and Welland. Furthermore, the disposal system of at least one area municipality in the Region is currently not being operated at a level satisfactory to the Ministry of the Environment which believes that this area municipality's site should be closed down completely and its garbage disposed of in the site of another area municipality.

Achieving effective rationalization in waste disposal operation is clearly difficult with twelve area municipalities, no matter how many bilateral or multilateral agreements are concluded among them. Not surprisingly, the position of the Ministry in this matter is that responsibility for solid waste management, or at least for waste disposal, should be assigned to the Regional Municipality - a level at which rationalization is more feasible than among the area municipalities. This view is unlikely to be acceptable to many area municipal officials but it must be recognized that two developments in the future could add weight to it. First, population growth could well generate demands beyond the capacity of the present waste disposal systems in the Region. Second, if a waste reclamation system is established within the Region, this system is unlikely to be viable unless waste management is consolidated under one jurisdiction. It would be difficult for twelve area municipalities to reach agreement and to help administer a system which will require the successful resolution of a multitude of matters including equitable transportation rates and the assurance of supply of waste to the reclamation plant.

Three other issues, although perhaps not of major importance, relate to the role of the Ministry of the Environment in its interaction with the regional and area municipalities. They can be summarized as follows:

1. The Regional Municipality has developed a contingency plan and response capability for dealing with small and moderate spills. However,

unlike the Ministry's officers, its staff have apparently no legal right to enter privately-owned land to investigate such spills. Granting them this right would seem to have merit, would represent a delegation of authority from the provincial to the local levels of government, and would require amendment to The Regional Municipality of Niagara Act.

2. The Regional Municipality of Niagara Act states, in effect, that the water resources of the Region are the responsibility of the Regional Municipality. The Ministry's position has been that The Ontario Water Resources Act applies to all the waters of Ontario and therefore takes precedence over the regional legislation. Watersheds do not respect political boundaries and, although there is no great problem in this regard in the Region, if it is accepted that the people of Niagara have a right to determine water quality in the Region, then some clarification of the two Acts may be desirable.
3. It might be unrealistic to expect the area municipalities to accept and adopt the model noise by-law of the Ministry. However concerned they might be about protecting their residents from noise, they do not feel that they can afford to implement such permissive legislation as this would require considerable expenditure in the monitoring and inspection activities necessary for successful enforcement of a by-law.

Resolution of these issues, particularly the major ones, would be difficult to achieve. Amendments to the law and some significant organizational adjustments would be necessary. Very important is the fact that some of them relate essentially to the division of responsibility and balance of power among the three levels of government - primarily that between the area municipalities and the Regional Municipality. Whether the authority of the area municipalities in environmental matters should be reduced even further is hotly debated in the Niagara Region but clearly a case can be made for an enhanced Regional Municipality role purely on the grounds of efficiency and effectiveness. Within limits, the Ministry of the Environment can interact with, and coordinate its activities with, all thirteen municipalities - but it would be easier to do so with one.

APPENDIX I

<u>LICENCES</u>			
	WATER QUANTITY	PESTICIDES	PRIVATE SEWAGE
Types	Water and Well drillers and borers	<ul style="list-style-type: none"> - Operator - Exterminator - Assistance of exterminator - Wholesale Vendor - Certificate of enrolment. 	Business for: <ul style="list-style-type: none"> - installing & servicing - storage and disposal (private sewage systems)
Legislative Authority		Pesticides Control Act E.P.A. Sections 49 & 50 Regulations 657/70	E.P.A. -Sections 61 & 94 Reg. in prep- aration.
Time Valid	1 Year	1 Year	1 Year
Delegation	M.O.E. Head Office	M.O.E. Head Office	Regional Govern- ment M.O.H.
Appeals	Regulations	Pesticides Licence Review Board	E.A.B.
Standards	Regulations	Regulations	Regulations

APPENDIX II

PERMITS				
	WATER QUANTITY	PESTICIDES	PRIVATE SEWAGE	WATER QUALITY
Type	- Water Taking	-Permits to use (4) -Permits to buy (2)	-To operate haulage and holding systems	- Aquatic Nuisance Control
Legislative Authority	-O.W.R.A. Sect. 37 Regulations	-Pesticides Act Regulations 657/70 -E.P.A. Part IV	-E.P.A. Parts vii, x, xiii Regulations	O.W.R.A. Section 38
Time Valid	Surface intake- 5 years Ground intake - 10 years	Specified job duration.	Indefinite	Specified job duration.
Delegation	M.O.E. Regional Offices	M.O.E. Head Office	M.O.E. Head Office	M.O.E. Head Office
Appeals	E.A.B.	E.A.B.	E.A.B.	E.A.B.
Standards	Guidelines. Almost Regulations in tobacco areas.	Regulations	Regulations	Guidelines

CERTIFICATES OF APPROVALS

	Sewage Works	Water Works	Industrial Wastes	Air	Solid Waste	Private Sewage
Types	Sewage Works	Water Works	Liquid Industrial Wastes other than hauled.	Stationary Facilities may emit contaminants into the air.	Certificate of Approvals to: Sites or Systems Provisional Cert. of Approval. Minister's Approvals.	Private Sewage Systems (Construction)
Legislative Authority	O.W.R.A. Sect. 42 No Regulations	O.W.R.A. Sect. 41 No Regulations	O.W.R.A. Sect. 42 No Regulations	E.P.A. Sect. 8-10 Regulations	E.P.A. Parts I, V, X, XIII Ontario Regulations 824. (Draft)	E.P.A. Section 56 57, 58, 59, 94 Regulations (Draft)
Time valid	Indefinite	Indefinite	Indefinite	Indefinite	1 Year	Indefinite or 18 months and renew.
Delegation	M.O.E. Head Office	M.O.E. Head Office	Complex-H.O. -M.O.E. Non-Complex -Reg. -M.O.E.	Complex-H.O. -M.O.E. Non-Complex -Reg. -M.O.E.	Head Office	Regional Gov't. M.O.H.
Appeals	E.H.B. E.A.B.	E.A.B.	E.A.B.	E.A.B.	E.A.B.	E.A.B.
Standards	Guidelines Water Quality	Guidelines Water Quality Texts Standards for fire fighting	Objectives for effluent Guidel- lines. Water Quality Pulp&Paper Obj. American Petroleum Institute.	Guidelines Eng. Guide- lines Texts <u>Formal Regulations</u>	Regulations Guidelines	Regulations

APPENDIX IV

INVENTORY OF CURRENT QUASI-APPROVALS							
Type	Farm Certificates of compliance	Snow Dumping	Permits Reviews (Federal)	Equipment, Materials and/or process suitability	Pro-Grants Reviews	Land Use	Environmental Impact Reviews
	Farm Certificate of compliance	Snow dumping	1) NWPA (Federal) Act 2) Public Lands Act 3) M.T.C. river crossing.	1) Plumbing. 2) Boating Sewage. 3) Sewage and Water Supply Systems. 4) Private Sewage and Systems. 5) Air 6) Liquid Industrial Waste 7) Handling and disposal of waste.	O.D.C. I.D.B. D.R.E.E. ARDA I.C.C. M.O.E.D. CMIC	1) Severance 2) Subdivisions 3) Zoning By-Laws 4) Official Plans 5) Input to Regional Development Plans	1) Public Projects. 2) Private or municipal projects
Legislative Authority	None	None	None	None	Indirect (Abatement)	No Direct Indirect by Planning Act and EPA (Abatement)	Environmental Assessment Act
Time Valid	Indefinite	Varies	Not Applicable.	Not Applicable	Ona Time	Indefinite	Indefinite
Delegation	Abatement Section Field Eng. M.O.E. Local Rep. O/WAF	M.O.E. Regional Office	M.O.E. Regional Office	M.O.E. Regional Office	M.O.E. Regional Office	M.O.E. Reg. Office except M.O.E. Head Office for Official Plans	M.O.E. Head Office
Standards	"Code of Farm Practices"	General Guidelines Water Quality	Guidelines Water Quality Individual merits	General engineering principles	Same as formal approvals	None (Past Experience)	As state of Arts develop

PART TWO

FARM TAX REDUCTION PROGRAM

A - Introduction

The Farm Tax Reduction Program (FTRP) is administered under Section 5 of the Ministry of Agriculture and Food Act. It was instituted in 1970 following the consolidation of school boards in the Province. The program provides tax relief to the owners of farm property - its purpose being to relieve the farmer of an inequitable share of municipal taxes and hence to encourage agriculture. The assistance provided equals 50% of the total municipal taxes (including education) on property used for farming. In the first three years of the program, the level of assistance was only 25% but this was increased to 50% in 1973. The FTRP is similar to a number of other programs of the provincial and federal governments in that it brings the citizen into direct contact with a senior level of government. Many such programs involve face-to-face contact between the citizen and the civil servant - for example, customs inspection and renewal of driver licences - but the FTRP is primarily centralized with most of the program delivery taking place by a provincial government ministry in Toronto through the use of the mail service.

B - Shared Responsibility

The FTRP undoubtedly has many of the characteristics of a high volume, quantitative and cyclical program which is centralized, delivered from a distance and which involves several provincial ministries as well as local government. This sharing of responsibility, and the resultant coordination and interaction, are important features of the program and can be summarized as follows.

The Regional Assessment Branch of the Ontario Ministry of Revenue decides whether property is farm property and assesses it. The area municipality is responsible for billing the owner for property taxes which the owner, hopefully, pays. The owner receives information about the FTRP from the Subsidies Branch of the Ontario Ministry of Treasury, Economics and Intergovernmental Affairs and, assuming that he is eligible and makes a claim, he subsequently receives a cheque equal to 50% of municipal taxes on farm property from the Ontario Ministry of Government Services. The Municipality of Regional Niagara is not directly involved. The funds come from the budget of the Ontario Ministry of Agriculture and Food, which collects statistics about the program but which is not directly associated with its delivery except for providing information to owners of farm property who may contact the

extension branch of this ministry about the program. The FTRP is administered primarily by the Ontario Ministry of Treasury, Economics and Intergovernmental Affairs. The Ontario Ministry of Revenue and Ontario Ministry of Government Services participate in property assessment and the issue of the cheque, respectively, and the area municipality in which farm property is owned deals with both the Ontario Ministry of Revenue and the Ontario Ministry of Treasury, Economics and Intergovernmental Affairs.

C - How It Works

Despite the multiplicity of government departments involved, the program operates reasonably smoothly insofar as it is routine. In approximately August of each year, the Subsidies Branch of the Ministry of Treasury, Economics and Intergovernmental Affairs sends to each area municipality a computer print-out based on the assessment rolls. This print-out shows the name of the owner, the roll number, the acreage and the assessment value of each farm property within the boundaries of the municipality. The Treasurer of the area municipality updates this roll taking into account property splits and changes in ownership from the area municipality's own records and then returns the amended print-out to the Subsidies Branch in Toronto.

In December, the owner of farm property receives from the Subsidies Branch a letter containing a pamphlet describing the program, a return envelope and an application form. The owner is eligible for the rebate if he resides in Ontario, owns a property which is assessed as a farm, uses it for farming purposes, generates products valued by him at not less than \$2,000 in a "normal productive year", has paid at least 50% of his municipal taxes, and is prepared to certify that he meets all the above requirements. The application form is computer printed and shows the file number of the property, its acreage, the net municipal tax, and the tax reduction to which the owner is entitled. The owner merely fills in the nature of the main production on his property, signs his name, adds his telephone number and the date, and mails the application form to the Subsidies Branch in Toronto.

During the same month, December, the Subsidies Branch contacts the area municipality in order to determine which owners of farm properties have paid at least 50% of their municipal taxes. The local treasurer goes through his records in order to ascertain this and he supplies the Subsidies Branch with a list of the names of owners of farm property who have not done so.

Assuming the property owner has paid 50% of his taxes and that there are no other problems, he will receive a cheque from the Ontario Ministry of Government Services around February for the taxes he has paid in the previous year. The average cheque in the Niagara Region would be for approximately \$240 but, in the case of large estates, could go up to \$3,000. Most owners of farm properties pay their taxes and then claim the rebate. Some pay only 50% of their taxes and use the rebate to pay the remaining 50%.

The FTRP is a high volume "business" with lots of data, forms, and form letters. The Subsidies Branch has some 250,000 farm properties on its computer. Application forms pertaining to more than 230,000 properties are mailed to owners and rebates applicable to more than 160,000 properties are subsequently paid. In the Niagara Region alone, there are more than 4,500 properties on which rebates are paid totalling more than \$1,100,000 per annum.

D - Few Problems

In general the FTRP works well but consideration of the process described in the preceding paragraphs indicates how difficulties can arise in its delivery. Whenever essential information is missing, is inaccurate or is changed, problems occur and these usually take the form of delay in payment of the rebate. It must be emphasized that such problems are relatively few - particularly in light of the total number of applications processed and rebates paid - and are usually caused by changes being made in the data required for the program rather than errors in the administration of the program. In this respect at least the FTRP operates much like all municipal property taxation for while property does not change much, its owners do.

Going back to the beginning of the process one sees that the initial information is provided by the Regional Assessment Office of the Provincial Assessment Branch. Land, which the assessor believes is being cultivated or pastured for farming purposes, is assessed as farm land. The assessor has a manual which provides guidelines for determining what land should be assessed as farm land but he must also exercise his own judgment. This task is not made easy by the fact that assessment is currently based on cost data related to the base year of 1940. Some errors are bound to occur and, more importantly, assessment records are, in any case, imperfect because of the continuing change in property ownership. If the assessor's task is difficult so is that of the local area municipal treasurer who is required to update the assessment roll and to

calculate the tax if the mill rate is not standard. Again, delay can occur as it can during December when the area municipality is required to check on which property owners have paid 50% of their taxes. The Subsidies Branch has to continually concentrate on updating its information.

The owner of farm property can also make errors and otherwise cause delay. Strictly speaking, the owner is supposed to return the form by the 31st of December of the following year but does not always do so and extensions to this deadline are routine. Although the application form is simple, it is not always correctly completed by owners of farm property and the information contained on it is sometimes amended by the owner in which case it will be automatically delayed or referred for further checking.

The data suggests that approximately a quarter of the owners of so-called farm property who receive the application form are not being paid a rebate. There are many reasons for this. Some farmland is not in production or generates less than \$2,000 worth of products. (This is more true of Northern Ontario than the Niagara Peninsula.) Some owners of farm properties do not pay their taxes and therefore are ineligible for the rebate. Some simply lose their application forms and never make any claim. Some owners object, in principle, to a rebate and do not make any claim. Some state that they have paid their taxes but have not. Some own land which is slated for development and realizing that they will have to repay the rebate, do not claim it in the first instance. A handful of owners of farm property are ineligible on the grounds that their property is not actually being used for farming.

A quarter of farm property owners not receiving the rebate sounds considerable but it should be noted that neither of the briefs from the Federations of Agriculture in the Niagara Region submitted to the Niagara Region Study Review Commission had any complaint on these grounds. Their concerns, insofar as they had any serious concerns, were that the program was slow and administratively cumbersome. In Niagara, it is probably fair to say that few, if any, of the owners of farm property who should be paid a rebate on their municipal taxes do not get paid this rebate though it can take a small number a long time to actually receive it.

E - Complaints

The major client complaint received by the Subsidies Branch, in fact, concerns delay in payment which can be caused by any one or more of the parties involved. From the point of view

of the individual owner who might have been waiting several months for his rebate, a complaint is justified. The local treasurer, who has probably done all he can to effect payment, finds the same complaint irritating if it is made to him. The Subsidies Branch sees it as an isolated problem among the many rebates it has processed quickly. The second most frequent complaint concerns the actual amount of the rebate. This is limited to 50% of the tax on farm land. Non-farm assessment is excluded as are any local improvement charges, the cost of dog licences, and Federations of Agriculture dues. Clearly some owners of farm property do not realize that they do not get paid a rebate on all of their municipal taxes but only on those applicable to farm land. The third most frequent complaint arises because of the uncertainty or disagreement which occurs when property changes hands and either the purchaser or the vendor finds that the other is obtaining the rebate. The Subsidies Branch wisely refuses to try to resolve such disputes, instead leaving it to the parties involved in the transaction and their respective lawyers.

F - Abuse

Property suitable for farming tends to be judged by assessors as agricultural regardless of whether or not it is in production and the FTRP operates on an "honour system" with the owner himself placing a value on his products. Since the Subsidies Branch does not conduct extensive field examination to determine if property is actually being farmed, the program is open to abuse by owners who do not farm their property but who pay their taxes and claim the rebate. The Subsidies Branch has no evidence to suggest that this is occurring. Presumably it does not, except perhaps in rare instances which do not come to the attention of the Subsidies Branch. When there is any suggestion that an ineligible owner has received a rebate the matter is investigated by the Farm Recovery Section of the Branch and, if appropriate, the owner is required to refund the rebate with interest.

G - Telephone Contact

The FTRP pamphlet provides a telephone number which may be called if the reader of the pamphlet has any questions about the program. This is a Toronto number and is in the Subsidies Branch. Calls to it may not be made toll free but the Subsidies Branch will accept collect calls as a matter of practice and

will, if necessary, call back when the inquirer is telephoning long distance. None of this is indicated on the pamphlet and several critics of the program have suggested that the number should be toll free and should be advertised as such. Most owners of farm property do not live in Metropolitan Toronto.

H - Appeals

An appeal process is open to both the property owners and the Province through a quasi-judicial body called the Farm Tax Reduction Review Board. This board was set up in 1973 and has, to date, heard only a handful of appeals. The actual proceedings are held locally and the appeal usually centres on whether the land is actually being farmed and on whether the type of production can be legitimately classified as farming production. The Farm Tax Reduction Review Board reports on its findings to the Provincial Treasurer and the Minister of Agriculture and Food, with discretion as to whether the rebate is paid resting with the Treasurer.

I - Conclusions

In principle, the Farm Tax Reduction Program is a simple program; in its administrative and operational detail, it is complex. It requires a routine level of interaction and co-ordination between the Subsidies Branch and the area municipalities. Such problems as occur arise because of administrative and clerical error and delay on the part of bureaucracies and property owners involved and, most importantly, because of changes in ownership. The only major policy issue associated with this program is that of whether or not farmers should be directly subsidized through a property tax rebate and on this matter the Government of Ontario has reached a clear decision. Less important but also contentious is the question of what is actually a farm and, in this regard, neither the Province nor anyone else has made much progress.

The way in which the program is delivered is open to some question. It is essentially a program of the Province but is delivered with the considerable assistance of the area municipalities who, it is probably fair to say, have some built-in resistance to playing a purely supportive role to the Province without commensurate resources or kudos. The FTRP, however, is the type of program suited to centralized delivery

and it is doubtful if the area municipalities would be enthusiastic about assuming responsibility for its administration.

The inefficiencies of the program itself, it should be noted, cannot be easily cured in view of the "givens" - the high volume of transactions, the low priority assigned to the program by all except the property owners and the Subsidies Branch, ever-changing property ownership, and the necessary involvement of many parties in the actual delivery.

In a supplementary paper to the 1976 Provincial Budget, the Government of Ontario announced that a commission would be appointed to review property taxation reform and that its terms of reference would include consideration of the Farm Tax Reduction Program. The Province is suggesting that the rebate be increased to 100% on farm land but excluding the residence. Some change in the program may therefore be expected following the report of this commission.

